IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2273 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SWAMI VIDYANANDJI KELVANI TRUST

Versus

DISTRICT EDUCATION OFFICER

Appearance:

MR NK MAJMUDAR for Petitioner

MR PR ABICHANDANI, AGP for Respondent

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 28/06/2001

ORAL JUDGEMENT

Heard Mr NK Majmudar, learned counsel for the petitioner and Mr PR Abichandani, learned AGP for the respondent-District Education Officer, Baroda.

2. The petitioner is an educational institution running a primary school in the city of Baroda. In this petition under Article 226 of the Constitution, the petitioner challenged the decision of the respondent in

not allowing the petitioner-school to increase the tuition fees to Rs. 200/- per month per student and the petitioner prayed for a writ of mandamus to direct the respondent to allow the petitioner-school to increase the tuition fees upto Rs.200/- per month per student.

3. By interim order dated 7.5.1999, this Court permitted the petitioner to increase the tuition fees from Rs.65/- to Rs. 100/- per month per student.

4. When the petition has reached final hearing today, the learned counsel for the petitioner has reiterated the averments made in the petition, but Mr PR Abichandani, learned AGP for the respondent points out from the reply affidavit that in response to the petitioner's proposal dated 24.6.1996 for permission to increase the fees, the respondent had called upon the petitioner to submit the necessary particulars which were not provided by the petitioner. The respondent has also stated in the affidavit about the strength of the teachers. It is further submitted that in the year 1996-97, looking to the income and expenses of the petitioner-school, there was justification for refusing to grant permission for increasing the fees. It is also submitted that the petitioner has an alternative remedy before the Director of Primary Education.

5. Having heard the learned counsel for the parties, it appears to the Court that since the respondent had not granted permission to the petitioner to increase the fees earlier on account of failure on the part of the petitioner to furnish the necessary particulars and also considering the fact that the question about the amount of fees would have to be determined on the basis of the facts now available, it would be just and proper to dispose of this petition with liberty to the petitioner to make a fresh representation to the respondent for permission to increase the fees with effect from the academic year 2001-2002 and to give suitable direction to the respondent to decide the same expeditiously in accordance with law.

6. The petition is accordingly partly allowed. It is directed that if the petitioner makes an application seeking permission to increase the tuition fees to the respondent within two weeks from today, the respondent shall consider such an application in accordance with law within two weeks from the date of receipt of the application, provided the petitioner has furnished all the necessary particulars.

It is, however, clarified that if the petitioner-institution has collected the tuition fees at the rate of Rs.100/- per month per student as per the interim order dated 7.5.1999, collection of such fees for the period from June 1999 onwards till June, 2000 shall not be disturbed by the respondent-authority.

7. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.S. Shah, J.)

sundar/-